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April 5, 2016

VIA ECF

Hon. Sarah Netburn
United States District Court
Southern District of New York
United States Courthouse
40 Foley Square
New York, NY 10007

**Re: *Fonseca, et al v. Dirksen & Talleyrand Inc., et al*,
13 Civ. 5124 (AT)(SN)**

Dear Judge Netburn:

We represent Plaintiffs and the Class in the above-captioned matter. We write to address Defendants' failure to produce documents responsive to Plaintiffs' December 16, 2015 documents requests.

This is a case brought for unpaid wages/tips under the Fair Labor Standards Act (FLSA) and New York Labor Law (NYLL). On September 28, 2015, Judge Torres certified a Class of all service employees employed by Defendants since the date that is six years from when the Lawsuit was filed (the "Class"). Following class certification, we served document requests on Defendants on December 16, 2015, seeking Class Members' payroll data, time sheets and tip sheets.

In the course of several back-and-forth meet and confer sessions both by email and telephone and in correspondence with Court, Defendants made clear numerous times that they would be producing Class-wide data, including payroll data, time sheets and tip-sheets by April 1, 2016—a three and a half month period from when the requests were served. Defendants' formal discovery responses similarly committed to producing the documents by April 1. April 1 came and went without Defendants producing the majority of documents or reaching out to us in any way to discuss their failure to do so. For the first time since the passing of the April 1 deadline and only upon our repeated prodding, Defendants informed us this evening that they could not immediately produce the documents, nor could they commit to a date for their production.

As Your Honor is aware, discovery closes on July 1, 2016, and trial is scheduled for September 26, 2016. Defendants have agreed that the documents we seek are relevant and should be produced. The documents—Class Member’s payroll reports, tip sheets and time sheets—are in fact crucial to establishing damages in this case. Defendants’ inexplicable delays with respect to the production of documents are causing Plaintiffs serious prejudice in their ability to efficiently prepare for trial. Accordingly, we seek this Court’s intervention to address these concerns.

Thank you for your consideration of our request.

Respectfully submitted,

JOSEPH & KIRSCHENBAUM

/s/ D. Maimon Kirschenbaum
D. Maimon Kirschenbaum

Cc: All counsel of record (via ECF)